

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CV-00744

**\$20,000.00, MORE OR LESS,
IN U.S. CURRENCY.**

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Plaintiff United States of America, by and through the undersigned Assistant United States Attorney, brings this complaint and alleges upon information and belief, in accordance with Supp'l Rule G(2), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, as follows:

NATURE OF THE ACTION

1. This is a civil action *in rem* to forfeit to the United States of America, pursuant to 21 U.S.C. § 881(a)(6), approximately \$20,000.00, more or less, in U.S. Currency (Defendant Funds) as moneys furnished or intended to be furnished by a person in exchange for a controlled substance, proceeds traceable to such an exchange, or moneys used or intended to be used to facilitate a federal controlled substance offense.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over an action commenced by the United States by virtue of 28 U.S.C. § 1345, and over an action for forfeiture by virtue of 28 U.S.C. § 1355.

3. This Court has *in rem* jurisdiction over the Defendant Funds pursuant to:

a. 28 U.S.C. § 1355(b)(1)(A), because pertinent acts or omissions giving rise to the forfeiture occurred in Mobile, Alabama, which is in Mobile County, and the Southern District of Alabama; and

b. 28 U.S.C. § 1355(b)(1)(B), because venue properly lies in the Southern District of Alabama pursuant to 28 U.S.C. § 1395.

4. Venue is proper in the United States District Court for the Southern District of Alabama, pursuant to 28 U.S.C. § 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district.

THE DEFENDANT *IN REM*

5. The Defendant Funds consist of \$20,000.00, more or less, in United States currency that was seized on February 13, 2019 on Interstate 10 (West) at or about Mile Marker 4. United States Department of Homeland Security - Homeland Security Investigations (“HSI”) took custody of the Defendant Funds and they remain in the custody of the United States.

6. As set forth in Supp’l Rule G(3)(b)(i), the Clerk of Court must issue a warrant to arrest the Defendant Funds if they are in the government’s possession, custody, or control.

BASIS FOR FORFEITURE

7. The Defendant Funds are subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6) because they constitute: (1) money furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act; (2) proceeds traceable to such an exchange; or (3) money used and intended to be used to facilitate a violation of the Controlled Substances Act.

FACTS

8. Specific details of the facts and circumstances supporting the forfeiture of the Defendant Funds have been provided by HSI Special Agent Jamal Dozier. He states as follows:

- a) At all times relevant, Jamal Dozier was and remains employed as a Special Agent (“SA”) with HSI. He has participated in numerous investigations, including investigations related to the Federal Controlled Substances Act and money laundering violations within the Southern District of Alabama and other judicial districts. SA Dozier is familiar with the operation of persons involved in the illegal prescribing, distribution, storage, and transportation of prescription drugs and the collection and distribution of money representing the proceeds of drug trafficking.
- b) On February 13, 2019, Deputy T. Tomazeski of the Mobile County Sheriff’s Office conducted a traffic stop of a Silver Chevy Silverado for following too closely. The vehicle was occupied by Juan Garcia (driver) and Christopher Vaughn (passenger). The driver (Garcia) did not have a valid drivers’ license. Garcia told the Deputy that he was in possession of a “substantial amount of money.” Garcia consented to Deputy Tomazeski searching the vehicle. Garcia’s wallet was located inside the center console and contained 2.0 grams of cocaine. Garcia was advised of his rights. SA Dozier was present during his post-Miranda interview.
- c) Garcia stated that he had traveled to Atlanta, Georgia to retrieve \$20,000 in cash and was returning to San Antonio, Texas. Garcia stated that he and Vaughn were interested in forming a business partnership to start up a salvage yard and they had borrowed the money from Garcia’s cousin as start-up money. Garcia claimed ownership of the currency and the cocaine.

- d) Garcia was questioned about why he would drive 14 hours to pick up cash rather than having his cousin electronically transfer the money to a San Antonio bank. Garcia stated that there wasn't a branch of his bank in Atlanta.
- e) Vaughn was separately Mirandized and interviewed. He stated that he and Garcia both had a background in vehicle maintenance and the currency in the vehicle was start-up money loaned by Garcia's cousin who lives in the Atlanta area. Vaughn was unable to state where in the Atlanta area the pair had traveled and did not know the cousin's name. When questioned about why the funds were not transferred electronically, Vaughn stated that he owed back child support and was afraid that if the funds were deposited in an account they would be seized to pay the debt. Vaughn was released at the scene.
- f) Garcia was arrested for possession of a controlled substance and HSI took custody of the \$20,000 in US Currency.

9. Based on the facts as set out by SA Dozier, probable cause exists to believe that the Defendant Funds are subject to forfeiture to the United States under 21 U.S.C. § 881(a)(6).

CONCLUSION

44. As required by Supp'l Rule G(2)(f), the facts set forth herein support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, probable cause exists to believe that the Defendant Funds constitute money used or intended to be used to facilitate federal controlled substance offenses, proceeds or are traceable to proceeds of federal controlled substance offenses, or money furnished or intended to be furnished in exchange for a controlled substance, in violation of 21 U.S.C. § 801, *et seq.*, and are therefore subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

WHEREFORE, pursuant to Supp'l Rule G, Plaintiff United States of America respectfully requests that process of forfeiture be issued against the Defendant Funds; that due notice be given to all interested parties to appear and show cause why the forfeiture should not be decreed; that the Defendant Funds be forfeited to the United States for disposition according to law; and that the United States have such other and further relief as this case may require.

Respectfully submitted,

RICHARD W. MOORE
UNITED STATES ATTORNEY

Date: October 7, 2019

By: /s/ Kasee Sparks Heisterhagen
Kasee Sparks Heisterhagen
Assistant United States Attorney
63 S. Royal Street, Suite 600
Mobile, Alabama 36602
Telephone: 251.415.7186
Facsimile: 251.441.5044
Email: kasee.heisterhagen@usdoj.gov

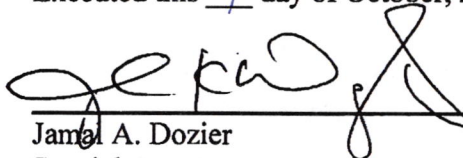
VERIFICATION

I, JAMAL A. DOZIER, hereby verify and declare under penalty of perjury, that I am a Special Agent with the United States Department of Homeland Security - Homeland Security Investigations, and pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint for Forfeiture *in Rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true to my own knowledge and belief.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, including the Mobile County Sheriff's Office. The Verified Complaint does not contain each and every fact that I have learned during the course of this investigation, but only those necessary to support the seizure of the Defendant Funds and the initiation of this civil forfeiture action.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of October, 2019.



Jamal A. Dozier
Special Agent
United States Department of Homeland Security
Homeland Security Investigations

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA Kasee S. Heisterhagen, USAO, SDAL, 63 S. Royal St.,
Suite 600, Mobile, AL 36609 251-441-5845**DEFENDANTS**

\$20,000.00, more or less, in U.S. Currency

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

21 USC 881(a)(6)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

10/7/19

SIGNATURE OF ATTORNEY OF RECORD

Kasee Heisterhagen

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CV-00744

**\$20,000.00, MORE OR LESS,
IN U.S. CURRENCY.**

NOTICE OF FORFEITURE ACTION

The United States of America, by and through the United States Attorney for the Southern District of Alabama, Richard W. Moore, filed a Verified Complaint for Forfeiture, on October 7, 2019, against \$20,000.00, more or less, in U.S. Currency, which is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6), which subjects to civil forfeiture all money or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of the Controlled Substances Act, all proceeds traceable to such an exchange, and all money used or intended to be used to facilitate any violation of the Controlled Substances Act.

On October 7, 2019, pursuant to Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, plaintiff sent this direct Notice of Forfeiture Action by certified mail, return receipt requested and Regular U.S. Mail to:

Kyle Henderson, Esq.
Kyle Henderson, LLC
PO Box 274
Daphne, AL 36526

Christopher Wayne Vaughn
128 Avondale
San Antonio, TX 78223

Juan Ignacio Garcia
5723 Old Sequin Road
San Antonio, TX 78219

Those receiving this notice are notified that in order to defend against civil forfeiture of the property, any person claiming an interest in, or right against it, must first timely file a claim in the court where the action is pending, pursuant to Rules G(4) and G(5) of the Supplemental Rules for

Admiralty or Maritime Claims and Asset Forfeiture Actions. Any such claim must identify the specific property claimed, identify the claimant and state the claimant's interest in the property, be signed by *the claimant* under penalty of perjury, and be served on the government attorney handling the case who is identified below. A claimant sent notice must file a claim no later than **35** days after the date notice is sent. This notice was sent on **October 7, 2019**, making any claim by a claimant sent direct notice due no later than **November 11, 2019**. In addition, any person having filed such a claim must also file an answer or motion in response to the complaint no later than **21** days after the filing of the claim. These dates may be extended in the event that any persons who reasonably appear to be potential claimants are identified.

Any claim you filed with the seizing agency in an administrative proceeding is **NOT** a substitute for the claim you must file in this action which meets the requirements of and within the time allowed under Rules G(4) and G(5), as described above.

Claims and Answers are to be filed with the Clerk, United States District Court, Southern District of Alabama, 155 St. Joseph Street, Mobile, Alabama 36602, with a copy thereof sent to Assistant United States Attorney, Kasee S. Heisterhagen, 63 S. Royal Street, Suite 600, Mobile, Alabama 36602.

Respectfully submitted,

RICHARD W. MOORE
UNITED STATES ATTORNEY

Date: October 7, 2019

By: /s/ Kasee Sparks Heisterhagen

Kasee Sparks Heisterhagen
Assistant United States Attorney
63 S. Royal Street, Suite 600
Mobile, Alabama 36602
Telephone: 251.415.7186
Facsimile: 251.441.5044
Email: Kasee.heisterhagen@usdoj.gov

CERTIFICATE OF SERVICE

On October 7, 2019, I certify that pursuant to Supp. R. For Adm. M. and Forf. Claims G(4)(b), the foregoing Notice of Judicial Forfeiture Proceeding and a copy of the Complaint *In Rem*, was sent via certified U.S. Mail, return receipt requested and regular U. S. Mail, to the following:

Kyle Henderson, Esq.
Kyle Henderson, LLC
PO Box 274
Daphne, AL 36526

Juan Ignacio Garcia
5723 Old Sequin Road
San Antonio, TX 78219

Christopher Wayne Vaughn
128 Avondale
San Antonio, TX 78223

/s/ Kasee Sparks Heisterhagen

Kasee Sparks Heisterhagen
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CV-19-00744

**\$20,000.00, MORE OR LESS,
IN U.S. CURRENCY.**

**WARRANT FOR ARREST OF
\$20,000.00, MORE OR LESS, IN U.S. CURRENCY**

**TO THE DEPARTMENT OF HOMELAND SECURITY OF THE SOUTHERN
DISTRICT OF ALABAMA AND/OR ANY OTHER DULY AUTHORIZED LAW
ENFORCEMENT OFFICER:**

WHEREAS, a Verified Complaint for Forfeiture *In Rem* which had been filed in this Court on October 7, 2019, alleges that the defendant in rem in the above-captioned action is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6), which subjects to civil forfeiture all money or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of the Controlled Substances Act, all proceeds traceable to such an exchange, and all money used or intended to be used to facilitate any violation of the Controlled Substances Act; and,

WHEREAS, the defendant is more particularly identified as \$20,000.00, more or less, in U.S. Currency; and,

WHEREAS, said defendant is alleged to be in the government's possession, custody or control in the Verified Complaint for Forfeiture *In Rem*, namely, the Department of Homeland Security, in the Southern District of Alabama, and,

WHEREAS, Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, effective December 1, 2006, requires that the Clerk of

Court issue a warrant for arrest of such a defendant if it is in the government's possession, custody, or control, and,

WHEREAS, service of a warrant for arrest in connection with a Verified Complaint for Forfeiture on property already in the government's possession, custody or control is necessary to establish the Court's *in rem* jurisdiction over the property;¹ and,

WHEREAS, Rule G(3)(b)(iii) provides that a warrant for arrest and any supplemental process may be executed outside the district when the Verified Complaint for Forfeiture *In Rem* is filed if authorized by statute; and,

WHEREAS, 28 U.S.C. §1355(d) authorizes any Court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any district such process may be required to bring before the court the property that is the subject of the forfeiture action by any court with jurisdiction over a forfeiture action; and,

WHEREAS, the United States District Court for the Southern District of Alabama has jurisdiction of this action as at least some of the acts or omissions giving rise to the forfeiture occurred in the district, authorizing the issuance and service of the warrant in another district under 28 U.S.C. §1355(b)(1)(A).

¹ *United States v. All Funds Distributed to Weiss*, 345 F.3d 49, 55 n.7, 56 n.8 (2d Cir. 2003) (seizure or constructive control of the property is necessary for the court to exercise in rem jurisdiction; distinguishing *James Daniel Good* as creating a special case for real property); *Ventura Packers, Inc. V. F/V Kathleen*, 424 F.3d 852, 853 (9th Cir. 2005) (in rem jurisdiction is obtained by serving an arrest warrant in rem pursuant to [former] Rule C(3)); *United States v. One Oil Painting*, 362 F. Supp. 2d 1175, 1183-84 (C.D. Cal. 2005) (the court does not obtain jurisdiction over the res until it is arrested, seized, or otherwise brought within the court's control; obtaining jurisdiction over the property and sending notice to potential claimants are different concepts).

YOU ARE, THEREFORE, HEREBY COMMANDED to as soon as practicable arrest and seize the defendant described herein and in the Verified Complaint for Forfeiture *In Rem*, to make prompt return thereof, and to use discretion and whatever means appropriate to protect and maintain said defendant.

Dated: _____

CHARLES R. DIARD, JR.
CLERK OF COURT

By: _____
Deputy Clerk